

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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|-------------------------------|---|-------------------------------|
| BRIAN OLSON and GEORGE RUIZ, |) | |
| |) | |
| Plaintiffs, |) | No. C06-1311RSL |
| |) | |
| v. |) | ORDER PRELIMINARILY |
| |) | APPROVING CLASS ACTION |
| TESORO REFINING AND MARKETING |) | SETTLEMENT |
| COMPANY, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter came before the Court on the “Joint Motion for Order Preliminarily Approving Settlement, Authorizing Notice and Setting Hearing for Final Approval of Settlement Agreement” (Dkt. # 74) and the “Joint Response of Parties to Court’s Request for Additional Information” (Dkt. # 80). In conjunction with these joint submissions, the parties have filed a “Stipulation of Settlement” (Dkt. # 76), which includes a copy of the parties’ October 8, 2008, Settlement Agreement as Exhibit A.

WHEREAS, the Court has considered the parties’ joint submissions, including the related documents, and all of the other pleadings, papers and filings herein;

WHEREAS all terms defined in the parties’ Settlement Agreement shall have the same meaning herein; and

WHEREAS, the Court finds that the parties’ Settlement Agreement, as represented in the joint submissions, is reasonable,

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1 Therefore, IT IS HEREBY ORDERED as follows:

2 1. Pursuant to this Court's September 12, 2007, "Order Granting Plaintiffs'
3 Motion for Class Certification" and the fact that three persons timely requested exclusion
4 from the class, the Class includes:

5 All maintenance and operations workers employed by Tesoro Refining and
6 Marketing Company at the Tesoro refinery in Anacortes, Washington, who
7 were paid for work any time between September 12, 2003, and September 12,
2007, excluding managerial employees and excluding the three individuals
who timely requested exclusion from the Class.

8 2. The Court preliminary approves the Settlement Agreement based on the
9 parties' representations in the "Joint Response of Parties to Court's Request for
10 Additional Information" (Dkt. # 80).

11 3. The Court approves the parties' amended form of "Notice of Proposed
12 Settlement Agreement" (hereinafter "Settlement Notice"), which is attached as Exhibit A to
13 the "Joint Response of Parties to Court's Request for Additional Information."

14 4. Consistent with the terms of the Settlement Agreement, defendant is hereby
15 directed to mail, or cause to be mailed, a copy of the Settlement Notice to each individual
16 Class Member no later than June 19, 2009.

17 5. Pursuant to Fed. R. Civ. P. 23, the Court hereby finds and concludes that the
18 form and manner of giving notice by mailing a Settlement Notice to each individual Class
19 Member is the best notice practicable under the circumstances. Said notice procedures fully
20 satisfy the requirements of Fed. R. Civ. P. 23(e) and the requirements of due process.

21 6. Pursuant to 28 U.S.C. § 1715 of the Class Action Fairness Act ("CAFA"),
22 counsel for the defendant has certified that, within ten (10) days after the proposed settlement
23 was filed in this Court, notice of the proposed settlement was served upon the Attorney
24 General of the United States and the Attorneys General for each state in which Class Members
25
26

are last known to reside (to the extent that such residence is known), including Washington state. Notice included the following documents as required by CAFA, 28 U.S.C. § 1715(b):

- a. The Complaint;
- b. Notice of the parties' "Joint Motion For Order Approving Settlement, Authorizing Notice And Setting Hearing For Final Approval Of Class Action Settlement;"
- c. The parties' proposed "Notice of Proposed Settlement Agreement;"
- d. The parties' October 8, 2008, Settlement Agreement;
- e. The parties' proposed "Preliminary Order Approving Settlement, Authorizing Notice and Setting Hearing for Final Approval of Class Action Settlement Agreement;"
- f. The parties' proposed "Final Judgment and Order Approving Settlement Agreement and Dismissing Class Action;" and
- g. Information regarding the Class as required under 28 U.S.C. § 1715(b)(7).

The parties shall serve this and all subsequent orders of the Court on the Attorneys General.

7. On September 16, 2009, at 8:30 a.m., or as soon thereafter as may be scheduled by the Court, a Final Settlement Approval Hearing will be held before the Honorable Robert S. Lasnik at the United States District Court for the Western District of Washington, to determine whether the Court should approve the fairness, adequacy and reasonableness of the terms and conditions of the Settlement Agreement and whether the Court should enter the parties' proposed Final Judgment, which is attached as Exhibit D to the parties' Stipulation of Settlement (Dkt. # 76).

8. The date set forth above for obtaining final approval of the proposed settlement has been set no earlier than ninety (90) days after the later of the dates on which the federal

1 and state officials listed in Paragraph 6 above were served, as required by the CAFA, 28
2 U.S.C. § 1715(d).

3 9. On or before September 9, 2009, the parties shall file any final memoranda or
4 other papers they wish to submit in support of the proposed Settlement Agreement, which
5 papers shall include sworn affidavit(s) or declaration(s) from the person(s) under whose
6 general direction the mailing of the Settlement Notice was prepared and made. Such
7 affidavit(s) or declaration(s) shall confirm that such mailing was made and completed in
8 accordance with the requirements of this Order.

9 10. Any Class Member may enter an appearance through counsel of such Class
10 Member's own choosing and at such Class Member's own expense. Any such Class Member
11 who does not personally appear or otherwise enter an appearance at the Final Settlement
12 Approval Hearing shall be deemed to be represented by Class Counsel.

13 11. Any Class Member may submit written objections to the Settlement
14 Agreement by mailing to Class Counsel and counsel for the defendant at the addresses
15 provided in the Settlement Notice, a written statement containing the Class Member's name,
16 current address and the substance of his or her objection (including any briefs and supporting
17 papers) no later than September 2, 2009. Upon receipt of such written objections from any
18 Class Member, Class Counsel will promptly file a copy of the written objections with the
19 Court no later than September 9, 2009. Any Class Member may also appear personally or
20 through counsel at the Final Settlement Approval Hearing to express the Class Member's
21 views regarding the Settlement Agreement. Only Class Members who object to the
22 Settlement Agreement in writing, in person, or by appearance through counsel, in accordance
23 with the procedures set forth in this Order and the Settlement Agreement, shall be permitted to
24 appeal or otherwise seek review of this Court's decision approving or rejecting the Settlement
25 Agreement. Failure to follow the procedures for objecting set forth herein shall constitute a
26 waiver of the Class Member's right to object to the Settlement Agreement.

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1 12. The Final Settlement Approval Hearing, and all dates provided for herein, may,
2 without further notice to the Class, be continued or adjourned by order of this Court.

3 13. Consistent with Subparagraphs 6(a) and 6(b) of the Settlement Agreement,
4 neither this Preliminary Order, nor the fact or substance of the Settlement Agreement, nor the
5 fact or substance of the joint submissions, shall be considered a concession or admission, nor
6 shall they be used against any of the Released Parties or Releasing Parties as an admission,
7 waiver or indication with respect to any claim, defense or assertion/denial of wrongdoing or
8 legal liability.

9 14. In the event the Settlement Agreement does not become effective in
10 accordance with the terms of the Settlement Agreement, or the Settlement Agreement is not
11 finally approved, or the Settlement Agreement is terminated, canceled or fails to become
12 effective for any reason, this Order shall be rendered null and void and shall be vacated, and
13 all claims and defenses previously asserted by the parties shall be reinstated, and the Court
14 shall enter further appropriate orders governing the proceedings and establishing a revised
15 case schedule in this matter.

16 15. The Clerk of Court is directed to note the Final Approval of Class Action
17 Settlement on the Court's calendar for Friday, September 18, 2009.

18 Dated this 20th day of May, 2009.

19 

20 Robert S. Lasnik
21 United States District Judge